IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

W.P.Nos.5822, 6029, 6030, 6038, AND 6044 OF 2003

-

W.P.No.5822 of 2004

Between:

The Commissioner,

Mahaboobnagar Municipality,

Mahaboobnagar District.

..... PETITIONER

AND

1. Labour Court-III, Hyderabad,

   Rep. by its Presiding Officer.

2. G. Vikramsimha Rddy, S/o. G.Konda Reddy,

   Ex.NMR, aged about 32 years,

   Mahaboobnagar Municipality,

   Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ or one in the nature of Writ of Mandamus calling for the records in I.D.No.104/2001 on the file of the first respondent, and quash the award passed by the first respondent in I.D.No.104/2001 dated 30-01-2003.

W.P.No.6029 of 2003:

Between:

The Commissioner,

Mahaboobnagar Municipality,

Mahaboobnagar District.

..... PETITIONER

AND

1. Labour Court-III, Hyderabad,

   Rep. by its Presiding Officer.

2. P.Krishnaiah, S/o. Balaiah,

   Ex.NMR, aged about 35 years,

   Mahaboobnagar Municipality,

   Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ or one in the nature of Writ of Mandamus calling for the records in I.D.No.177/2000 on the file of the first respondent, and quash the award passed by the first respondent in I.D.No.177/2000 dated 30-01-2003.

W.P.No.6030 of 2003:

Between:

The Commissioner,

Mahaboobnagar Municipality,

Mahaboobnagar District.

..... PETITIONER

AND

1. Labour Court-III, Hyderabad,

   Rep. by its Presiding Officer.

2. Yadaiah, S/o. Venkanna,

   Ex.NMR, aged about 30 years,

   Mahaboobnagar Municipality,

   Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ or one in the nature of Writ of Mandamus calling for the records in I.D.No.82/2001 on the file of the first respondent, and quash the award passed by the first respondent in I.D.No.82/2001 dated 30-01-2003.

W.P.No.6038 of 2003:

Between:

The Commissioner,

Mahaboobnagar Municipality,

Mahaboobnagar District.

..... PETITIONER

AND

1. Labour Court-III, Hyderabad,

   Rep. by its Presiding Officer.

2 Smt.Kashamma, , W/o. Masayya,

   Ex.NMR, aged about 34 years,

   Mahaboobnagar Municipality,

   Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ or one in the nature of Writ of Mandamus calling for the records in I.D.No.237/1998 on the file of the first respondent, and quash the award passed by the first respondent in I.D.No.237/1998 dated 30-01-2003.

W.P.No.6044 of 2003:

Between:

The Commissioner,

Mahaboobnagar Municipality,

Mahaboobnagar District.

..... PETITIONER

AND

1. Labour Court-III, Hyderabad,

   Rep. by its Presiding Officer.

2 Y.Venkataiah, S/o. Yellaiah, ,

   Ex.NMR, aged about 39 years,

   Mahaboobnagar Municipality,

   Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ or one in the nature of Writ of Mandamus calling for the records in I.D.No.16/1999 on the file of the first respondent, and quash the award passed by the first respondent in I.D.No.16/1999 dated 30-01-2003.

Counsel for the Petitioner in all WPs: MR.V.VISWANATHAM,

Counsel for the Respodnent No.1 in all WPs:GP for Labour

Counsel for the Respondent No.2 in all WPs: MR.P.RAGHAVENDRA REDDY

The Court made the following Order :

THE HON'BLE MR JUSTICE V.ESWARAIAH

W.P.Nos.5822, 6029, 6030, 6038, AND 6044 OF 2003

COMMON ORDER:

Since the issue involved in these writ petitions is one and the same, they are disposed of by a common order.

These writ petitions are filed by the Commissioner, Mahaboobnagar Municipality, against the awards passed by the Labour Court-III, Hyderabad in various Industrial Disputes raised before it.

The first respondent in all these writ petitions is the Labour Court and the second respondent is the concerned workman.

The case of the workmen is that they were appointed as NMRs on daily wage basis on various dates and their services were discontinued by the petitioner-Municipality without paying any compensation and without following the procedure prescribed under the Act. The workmen had approached the Labour Court under Section 2(A) 2 of the Industrial Disputes Act, 1947 (for short 'the Act') praying to direct the petitioner-Municipality to reinstate them into service with continuity of service, back wages and other attendant benefits.

In the affidavit filed by the petitioner-Municipality, it is stated that the petitioner-Municipality never engaged the workmen at any point of time either on daily wage basis or under NMR basis.

The Labour Court on consideration of both oral and documentary evidence available on record held that since the workmen have completed more than 240 days of continuous service within one calendar year and since the petitioner-Municipality has not followed the procedure contemplated under Section 25-F of the Act before terminating the services of the workmen, directed the petitioner–Municipality to reinstate the workmen into service, but without back wages and without attendant benefits.

Admittedly, as per Exs.W.1 to W.16 the workmen have worked for more than 240 days of continuous service within one calender year, and therefore, the petitioner-Municipality without following the provisions contemplated under the Act terminated the services of the workmen. The Division Bench of this Court in **Municipal commissioner v. Smt. D.Susheela,** held as follows:

"The employer has violated the mandatory requirements of Section

25-F of the Industrial Disputes Act. Relationship of 'employer and employee' in the case of statutory authority like a Municipality, a local self-government, is not that of a 'master and servant', but of status of the employee which is protected under Articles 14 and 16(1) of the Constitution of India. Conditions of service and more so, the statutory protections are intended to protect what Article 21 of the Constitution of India guarantees the right to life, which includes right to receive the salary in service of the State on such terms as are agreed and on conditions which are provided under the statutes meant for them. Violations of the mandatory requirements as are provided under Section 25-F of the Industrial Disputes Act clearly establish that the State concerned has not fulfilled its obligations arising under the twin guarantees of equality before law and equal protection of law as well as equality of opportunity of employment. It is imperative, in our view, thus to direct the appellant to honour the award forthwith and treat the reinstatement effective from the day the award became enforceable under the law."

Keeping in view the aforesaid judgment, I feel it appropriate to direct the petitioner-Municipality to honour the award passed by the Labour Court, and I do not see any merits in the writ petitions.

The Writ Petitions are accordingly dismissed. No costs.

25-08-2004

usd

To

1 The Presiding Officer, Labour Court-III, Hyderabad,

2. Two CCs to G.P. for Labour, A.P.High Court Buildings, Hyderabad (o.u.t)

3. Two CD copies